

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 331X)]

Union Pacific Railroad Company—Discontinuance of Trackage Rights Exemption—in  
Pierce County, Wash.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments and Discontinuances of Service to discontinue approximately 0.6 miles of overhead trackage rights over a line of railroad of BNSF Railway Company (BNSF), between “Bullfrog Junction” near BNSF’s Puyallou River Bridge 8.78 and the point of connection with BNSF’s Seattle Division main line at River Street Interlocking, BNSF milepost 38.94X, in Tacoma, Wash. (the Line).<sup>1</sup> The Line traverses United States Postal Service Zip Code 98421.

UP has certified that (1) no local traffic has moved over the Line for at least two years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is pending either with the Board or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12

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<sup>1</sup> UP was granted trackage rights over the Line in Union Pac. R.R.—Trackage Rights Exemption—BNSF Ry., FD 34881 (STB served June 20, 2006). UP states that BNSF terminated the trackage rights agreement effective May 30, 2016.

(newspaper publication), and 49 C.F.R. § 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on July 16, 2016, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 C.F.R. § 1152.27(c)(2)<sup>2</sup> must be filed by June 27, 2016.<sup>3</sup> Petitions to reopen must be filed by July 6, 2016, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Jeremy M. Berman, 1400 Douglas St., #1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

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<sup>2</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,600. See 49 C.F.R. § 1002.2(f)(25).

<sup>3</sup> Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

Board decisions and notices are available on our website at  
“[WWW.STB.DOT.GOV](http://WWW.STB.DOT.GOV).”

Decided: June 13, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.